

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDITH E. HOLGATE and U.S. POSTAL SERVICE,
POST OFFICE, Manchester, NH

*Docket No. 02-1185; Submitted on the Record;
Issued January 7, 2003*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs abused its discretion by denying appellant's request for reconsideration.

On May 5, 2000 appellant, a 37-year-old letter clerk, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she sustained an emotional condition in the performance of duty. She described her condition as depression, anxiety, panic disorder and irritable bowel syndrome, which she attributed to constant harassment and pressure from management. Appellant stopped working April 2000. The employing establishment controverted appellant's claim on the basis that the medical evidence submitted did not demonstrate a causal relationship between her claimed condition and her employment.

By decision dated February 10, 2001, the Office denied appellant's claim on the basis that she failed to establish that she sustained an injury as alleged. The Office found that appellant failed to substantiate her allegations of harassment.

Appellant subsequently requested reconsideration on February 1, 2002. In a decision dated February 25, 2002, the Office denied appellant's request for reconsideration.

The Board finds the Office properly denied appellant's February 1, 2002 request for reconsideration.

Section 10.606(b)(2) of Title 20 of the Code of Federal Regulations provides that a claimant may obtain review of the merits of the claim by either: (1) showing that the Office erroneously applied or interpreted a specific point of law; (2) advancing a relevant legal argument not previously considered by the Office; or (3) submitting relevant and pertinent new evidence not previously considered by the Office.¹ Section 10.608(b) provides that when an

¹ 20 C.F.R. § 10.606(b)(2) (1999).

application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b)(2), the Office will deny the application for reconsideration without reopening the case for a review on the merits.²

Appellant's February 1, 2002 request for reconsideration neither alleged nor demonstrated that the Office erroneously applied or interpreted a specific point of law. Additionally, appellant did not advance a relevant legal argument not previously considered by the Office. Consequently, appellant is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under section 10.606(b)(2). With respect to the third requirement, appellant did not submit any relevant and pertinent new evidence not previously considered by the Office. She did not submit any medical evidence on reconsideration. Appellant submitted a four-page statement reiterating many of her allegations of harassment. Evidence that is repetitious or duplicative of that already in the case record has no evidentiary value in establishing a claim and does not constitute a basis for reopening a claim.³ Consequently, appellant is not entitled to a review of the merits of her claim based on the third requirement under section 10.606(b)(2).

As appellant is not entitled to a review of the merits of her claim pursuant to any of the three requirements under section 10.606(b)(2), the Board finds that the Office did not abuse its discretion in denying appellant's February 1, 2002 request for reconsideration.

The February 25, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
January 7, 2003

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

² 20 C.F.R. § 10.608(b) (1999).

³ *James A. England*, 47 ECAB 115, 119 (1995); *Saundra B. Williams*, 46 ECAB 546 (1995); *Sandra F. Powell*, 45 ECAB 877 (1994).